



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPELLANT: Wyatt

EXAMINER: Pass

SERIAL NO.: 09/544,509

GROUP ART UNIT: 3626

FILING DATE: April 6, 2000

ATTY. DOCKET NO.: MCO-P-00-003

INVENTION: "A METHOD AND SYSTEM FOR MATCHING MEDICAL CONDITION INFORMATION WITH A MEDICAL RESOURCE ON A COMPUTER NETWORK"

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S REPLY BRIEF

SIR/MADAM:

Appellant submits herewith Appellant's Reply Brief in response to the Examiner's Answer dated February 26, 2007.

Appellant submits that no fee is required for submission of this Reply Brief. However, the Patent Office is hereby authorized to charge any additional fees which may be required, or to credit any overpayment to Deposit Acct. No. 50-0595. A duplicate of this sheet is enclosed for this purpose.

Respectfully submitted,

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APPELLANT'S REPLY BRIEF

SIR/MADAM:

This Reply Brief is submitted in response to the Examiner's Answer dated February 26, 2007. In the Examiner's Answer, the arguments presented in the Appeal Brief filed June 16, 2006 were not found persuasive by the Examiner. Additionally, the Examiner raised three new points of argument in the Examiner's Answer.

I. ADMISSIONS IN APPELLANT'S SPECIFICATION DO NOT REMEDY THE DEFICIENCIES OF THE HEALTHGRADES REFERENCE

In the Examiner's Answer, the Examiner admits that the *Healthgrades* reference fails to disclose the step of providing a database on the remote server wherein the database stores first information relating to a plurality of medical conditions and second information relating to a plurality of medical resources. In the Examiner's Answer, the Examiner alleges that "Appellant's own disclosure" demonstrates that this step is well-known in the art. The Examiner cites the specification statement that "it is generally

known to provide access to databases that may contain medical information". However, Appellant respectfully contends that the step of providing a database requires further elements in addition to providing a database that may contain medical information. Claim 1 requires providing a database on the remote server wherein the database stores first information relating to a plurality of medical conditions and second information relating to a plurality of medical resources wherein the plurality of medical conditions are diseases and disorders and further wherein the plurality of medical resources are medical specialists, specialty hospitals, medical facilities and health facilities which treat at least one of the plurality of medical conditions.

The explicit claim requirement that the database store "first information relating to a plurality of medical conditions and second information relating to a plurality of medical resources wherein the plurality of medical conditions are diseases and disorders and further wherein the plurality of medical resources are medical specialists, specialty hospitals, medical facilities and health facilities which treat at least one of the plurality of medical conditions" is not generally known and differs from the standard medical information stored in generally known databases as referred to in the text of the specification cited by the Examiner.

Healthgrades merely teaches that *HealthGrades.com* intends to be the leading web-based site for the distribution of free health care provider and health plan rating information. Further, *Healthgrades*

teaches that HealthGrades.com is designed to provide straightforward and objective educational quality ratings in the form of "report card" information. The information is based on conclusions derived from applying algorithms to collected provider data. The Examiner cites the disclosure of *Healthgrades* that through Healthgrades.com "consumers can find objective data regarding the best hospitals and physicians to treat their illness". See *Healthgrades*, paragraph 5. However, it is clear from the context of the entirety of the reference that this citation merely indicates that resources are given objective rankings, not that resources are matched with specific medical conditions treated by the resources.

The statements in Appellant's specification regarding generally known databases do not remedy the deficiencies of *Healthgrades*. Therefore, the rejection of Claims 1-20 under 35 U.S.C. §103(a) is improper and should be reversed.

**II. INDEPENDENT CLAIMS 1 AND 15 DO
NOT RECITE NEW MATTER**

In the Examiner's Answer, the Examiner alleges that added material is not supported by the original disclosure. However, the specification discloses that "[t]he search of the database 66 may match the medical resources with the particular medical conditions and/or medical procedures chosen by the individual." See Page 11, lines 25-28. "The particular medical resources that match the medical conditions and/or medical procedures designated by the individual may be output via a step 68 to the remote computer 24, 26

or any other remote computer that is being used by the individual."

Page 11, lines 29-33.

The third information is the matching of the medical resource with the medical condition and/or the medical procedure, and this match is disclosed to the individual, as set forth above with specific references to the specification. Thus, the Specification, as filed, supports the claim elements "wherein the medical condition of the query is matched to a second medical condition"; "wherein the third information relates to the second medical condition"; and "means for disclosing second information wherein the second information relates to one of the plurality of medical conditions of the query". Therefore, Appellant submits that the specification discloses that the medical condition of the query is matched to a second medical condition or that the third information relates to the second medical condition, respectively, as required by Claim 1.

Accordingly, Appellant asserts that the rejection of Claims 1-20 under 35 U.S.C. §112, first paragraph, is improper and should be reversed.

**II. INDEPENDENT CLAIMS 1 AND 15 DISTINCTLY CLAIM
THE SUBJECT MATTER REGARDED AS THE INVENTION**

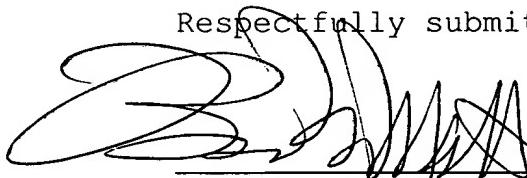
In the Examiner's Answer, the Examiner alleges that Claim 1 is indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. Claim 1 recites that "the medical condition of the query is matched to a second medical condition from the plurality of medical resources in

the first information". The claim indicates that the first information has the second medical condition and that the medical condition of the query is matched to the second medical condition. Since Claim 1 also states that the medical resources treat at least one of the plurality of medical conditions of the first information, matching the condition of the query to the second medical condition of the first information also matches the condition of the query to at least one of the resources. Accordingly, the rejection of Claim 1 under 35 U.S.C. §112, second paragraph, is improper and should be reversed.

CONCLUSION

For the foregoing reasons, Appellant respectfully submits that the rejections of Claims 1-20 are erroneous as a matter of law and fact and respectfully requests the Board to reverse the rejections.

Respectfully submitted,

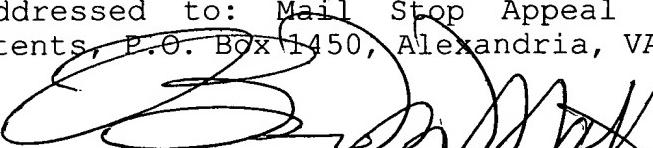


(Reg. No. 35,018)

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CERTIFICATE OF MAILING

I hereby certify that this **REPLY BRIEF, RETURN POSTCARD** and **APPELLANT'S REPLY BRIEF TRANSMITTAL (in duplicate)** are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 22, 2006.



Brian M. Mattson (Reg. No. 35,018)